

## **2005 DRAFTING REQUEST**

### **Assembly Substitute Amendment (ASA-AJR77)**

Received: **04/07/2006**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Jeffrey Wood (608) 266-1194**

By/Representing: **tim**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Constitutional Amendments**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.WoodJ@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**  
**bob.lang@legis.state.wi.us**  
**fred.ammerman@legis.state.wi.us**  
**dave.loppnow@legis.state.wi.us**  
**rick.champagne@legis.state.wi.us**

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#### **Pre Topic:**

No specific pre topic given

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#### **Topic:**

Revenue Limits

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#### **Instructions:**

See Attached

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#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 04/07/2006	csicilia 04/09/2006	rschluet 04/10/2006	_____	Inorthro 04/10/2006		
	jkreye 04/10/2006	csicilia 04/10/2006		_____			
/1			jfrantze	_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			04/10/2006 _____		04/10/2006	04/10/2006	
/2	rchampag 04/11/2006	csicilia 04/11/2006	chaugen 04/11/2006 _____		lnorthro 04/11/2006	lnorthro 04/11/2006	
	rchampag 04/11/2006	csicilia 04/11/2006	rschluet 04/11/2006 _____				
/3	rchampag 04/11/2006	csicilia 04/11/2006	pgreensl 04/11/2006 _____		mbarman 04/11/2006	mbarman 04/11/2006	

FE Sent For:

<END>

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	jkreye 04/10/2006	csicilia 04/10/2006		_____ 4/11			
/1			jfrantze 4/11/06	_____ PS/B	mbarman	mbarman	

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	rchampag	csicilia	rschluet	_____			
	04/11/2006	04/11/2006	04/11/2006	_____			

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Subject: **Constitutional Amendments**

Extra Copies: **LFB, Bob Lang, Dave Loppnow, Fred Ammerman**

Submit via email: **YES**

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fred.ammerman@legis.state.wi.us  
loppnow.dave@legis.state.wi.us  
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Fred Ammerman

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4/10  
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FE Sent For:

<END>

## Kreye, Joseph

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**From:** Fiocchi, Tim  
**Sent:** Wednesday, April 05, 2006 4:57 PM  
**To:** Ammerman, Fred; Kreye, Joseph; Lang, Bob; Loppnow, Dave  
**Subject:** TPA Draft Markup

**Attachments:** tpa draft markup.rtf

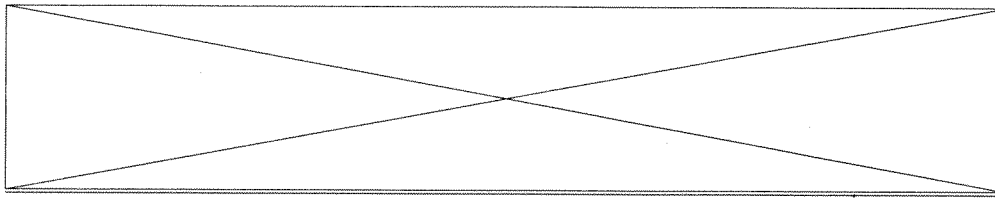
Attached is a marked up version of TPA. The strike-through changes are from the group and the "track changes" are from Jeff. We should walk through these as soon as possible. I'm sure there will be more.

Tim Fiocchi  
Office of Representative Jeff Wood  
(608) 266 1194



tpa draft  
markup.rtf (53 KB)

2005 Special Session  
2005 - 2006 LEGISLATURE



Revenue limits

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2005 ASSEMBLY JOINT RESOLUTION 77

*To create* section 11 of article VIII of the constitution; **relating to:** creating a revenue limit for the state and local governmental units, depositing excess revenue into an emergency reserve, returning excess revenue to taxpayers, elector approval for exceeding the revenue limit, state and local governmental approval for reducing the revenue limit, requiring the state to reduce its revenue limit in conjunction with reduction in state aid, reimbursing the reasonable costs of imposing state mandates, standing to bring a suit to enforce the revenue limits, and requiring the approval of only one legislature to amend the revenue limit provisions (first consideration).

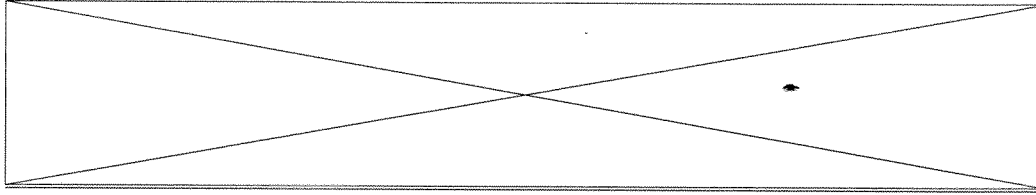
***Resolved by the assembly, the senate concurring, That:***

**SECTION 1.** Section 11 of article VIII of the constitution is created to read:

[Article VIII] Section 11 (1) In this section:

(a) "Local governmental unit" means a county, municipality, special purpose district, school district, or technical college district.

## 2005 - 2006 Legislature



(b) "Municipality" means a city, village, or town and includes a district, utility, or other entity that receives moneys from taxes or fees and that is created, by a city, village, or town. *- other than local or railway district -*

**Deleted:** authorized,

**Deleted:** or established

**Deleted:** , regardless of whether the governing body of the city, village or town retains any authority or control over the district, utility, or other entity

(c) "Population" means annual population estimates adjusted by the most recent federal decennial census, as determined by the state.

(d) "Revenue" means all revenue except: moneys used to pay debt service on economic development bonds as defined by law, moneys deposited into a fund under sub. (3), moneys received from the issuance of bonds, moneys used to pay a damage award or settlement, moneys used for expenses arising from natural disaster or terrorist attack, or moneys received from the federal government, from the state or a local governmental unit for providing governmental services to governmental entities, from gifts or from damage awards, moneys received for the operation of a telephone, gas, electric, sewerage or water utility, or moneys received for medical care provided by a facility operated by, any entity that is subject to the limits imposed under this section, from unemployment insurance taxes, from insurance assessments or premiums, from employee payments for fringe benefits, from governmental property insurance, from investment trusts, from private purpose trusts, from college savings programs, from fees imposed for airport or mass transportation systems, or from tuition or fees imposed for

**Deleted:** moneys received from taxes, fees, licenses, permits, assessments, fines, and forfeitures imposed by the state or a local governmental unit; lottery proceeds net of prizes, tribal gaming proceeds. "Revenue" includes revenue transferred or spent from a fund under sub. (3), not including moneys transferred or spent for relief from taxes imposed by the state, and moneys used to pay the debt service on bonds, except economic development bonds as defined by the legislature by law. "Revenue" includes all moneys received by a local governmental unit from the state, not including ~~one-time grants~~. "Revenue" does not include

**Deleted:** excess revenue *key*

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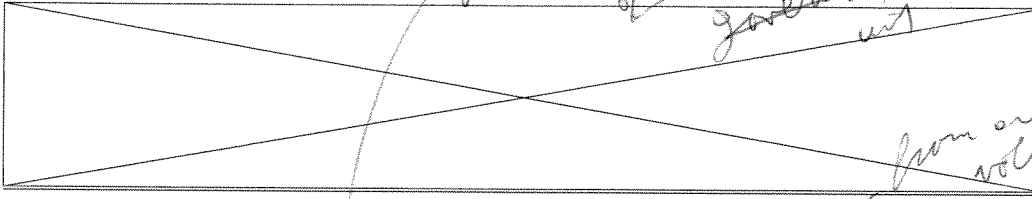
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4/6/2006

*exclude one-time grants ✓*

*excluding interfund transfers ✓*

2005 - 2006 Legislature



university or technical college functions. The legislature, by law, may exclude from "revenue" moneys generated by a local governmental unit, from licenses or fees provided the moneys do not exceed the cost of issuing the license or, providing the service associated with the fee.

(e) "Segregated entity" means any state agency or other entity created by the state that receives moneys generated from taxes or fees that are specifically designated for that agency or entity.

(f) "Special purpose district" means any entity other than the state, a segregated entity, or local governmental unit that is authorized to collect taxes, assessments, or fees.

(2) Subject to subs. (3) and (5) to (7), the state, a segregated entity, or a local governmental unit may not collect more in revenue, in <sup>2010</sup>2009, than the amount it collected in <sup>2009</sup>2008, or, in each subsequent year, than the maximum amount it was permitted to collect in the previous year under this section, increased by the average of the annual percentage increase, if any, in the consumer price index for Milwaukee-Racine, or its successor index, for the 3 years preceding the previous year, but not to exceed the average percentage increase from the three years preceding the previous year, if any, in state personal income, plus:

Deleted: from any source

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Deleted: any amount of money generated by a fee that exceeds the cost of

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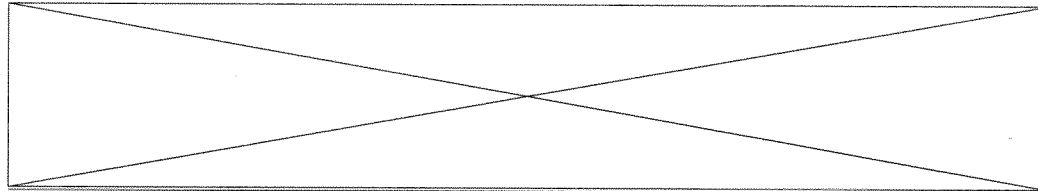
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lessor of the average of the annual percentage increase, if any, in the 3 most recently completed years for the CPI for M-R, or its successor index, or

MAY NEED TO  
CREATE "INFLATION  
FACTOR"  
DEFINITION  
TO MAKE  
SHOWER WITH  
NEED PARAGRAPH  
FOR SCHOOL  
DISTRICTS TAKE  
COLLECTIVELY

## 2005 - 2006 Legislature



(a) For the state, a segregated entity, a special purpose district, or a technical college district, the percentage increase from the previous year in the population of the the entity.

Deleted: , a county

(b) For all school districts taken collectively, the three year average of CPI plus the percentage that is the average of the annual percentage change, if any, for the 3 years preceding the previous year in enrollment. The legislature, by law, shall allocate to the school districts the amounts determined under this paragraph.

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(c) For a municipality or county, 67 percent of the percentage increase from the previous year in property values attributable to new construction, less the value of any property removed or demolished, in the municipality or county.

(3) (a) If the revenue received by the state or local governmental unit in any year exceeds its limit under this section, the state or local governmental unit shall deposit into an emergency reserve fund all of the excess revenue, except that the total amount in the fund may not exceed an amount that is equal to 8 percent of the state's or local governmental unit's total revenue in the previous year.

Deleted: any entity

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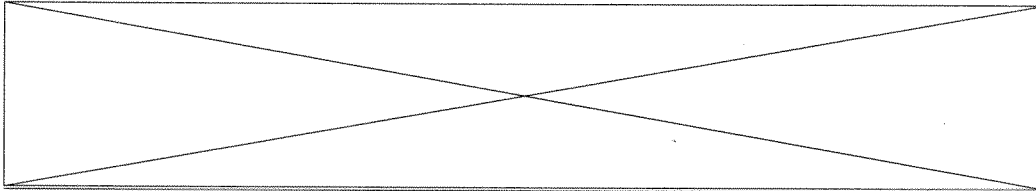
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(b) Expenditures may be made from the emergency reserve fund, only for relief from taxes imposed by the entity, expenses arising from natural disaster or

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4/6/2006

## 2005 - 2006 Legislature



terrorist attack, or in a year in which the amount of the entity's limit determined under this section is greater than the amount of the entity's revenue. *note*

(c) Any expenditures for tax relief made under this subsection shall be made in the year immediately following the year in which the entity has the excess revenue. *MAKE IT CLEAR THAT EXCESS REVENUE (BEYOND 8%) PAID IN YEAR, etc.*

(4) No revenue source designated for use by a segregated entity as of January 1, 2006 shall be used for any other purpose.

(5) The state or a local governmental unit may reduce the revenue limit imposed under this section, and may exceed the revenue limit imposed under this section only with the approval of the electors of the state or local governmental unit, respectively, at a referendum. The referendum shall be held in such manner and time as the legislature shall prescribe and shall specify whether the increase

in the revenue limit is on a recurring or nonrecurring basis.

(6) The legislature may, by law, proportionately adjust any limit imposed under this section to accommodate the transfer of services from any entity subject to a limit under this section to any other such entity, including the transfer of services that results from annexation, or the elimination or reduction of a state mandated service.

(7) The state revenue limit under this section for any year shall be reduced by the amount of any reduction in that year in the aggregate amount of state aid to each type of local governmental unit, as compared to the previous year.

*Category?*

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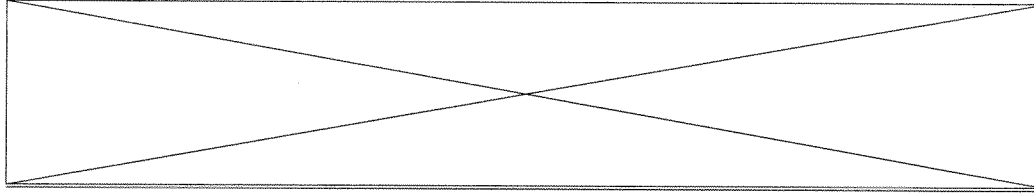
Deleted: by a majority vote of the governing body of the local governmental unit or, in the case of the state, by the vote of a majority of the members elected to each house of the legislature;

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## 2005 - 2006 Legislature



(8) A state law or administrative rule that increases the expenditure of money by a local governmental unit may not be enacted or adopted on or after the ratification of this subsection unless the state provides for the payment to the local governmental unit of an amount that is equal to the reasonable costs incurred by the local governmental unit to comply with the law or rule. This subsection does not apply to any state law or administrative rule that is enacted or adopted in order to comply with a requirement of federal law, including a requirement related to receiving federal aid.

Deleted: requires

Deleted: For purposes of this subsection, the legislature shall be the sole determiner of the reasonable costs incurred by a local governmental unit to comply with any law or administrative rule.

(9) No state law may require any local governmental unit to increase its ~~annual salary and fringe benefit~~ <sup>compensation</sup> costs by a percentage that exceeds the allowable percentage increase in the revenue limit for that local governmental unit under this section.

(10) A village or town may be exempted from these limits if its budget or tax levy is approved by the electors at an annual meeting, in a manner prescribed <sup>by law</sup> ~~by law~~.

Deleted: local unit of government

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(11) A special purpose district may use revenue in excess of the limit for the purpose of retiring debt that was incurred prior to January 1, 2006.

(12) Any individual or class of individuals residing in this state has standing to bring a suit to enforce this section as it relates to the state or to the local

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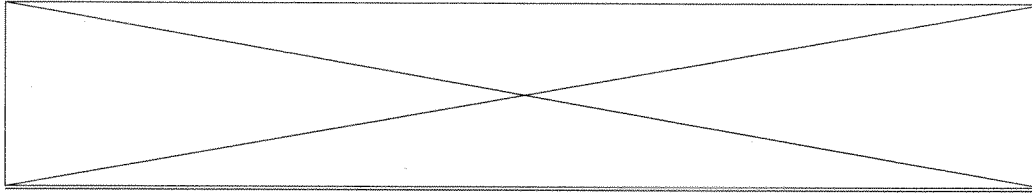
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## 2005 - 2006 Legislature

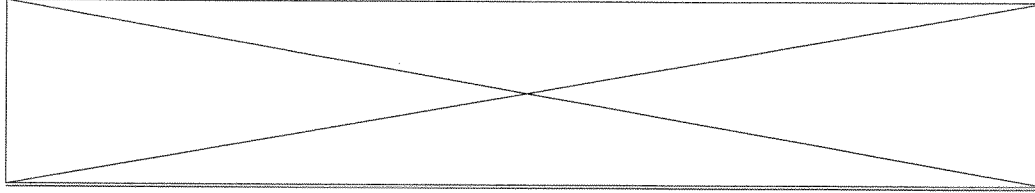


governmental unit in which the individual or class of individuals resides or pays property taxes.

(13) Any amendment or amendments to this section may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon; notwithstanding section 1 of article XII, it shall then be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part to the constitution; provided, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

**SECTION 2. Numbering of new provision.** The new section 11 of article VIII of the constitution created in this joint resolution shall be designated by the next higher open whole section number in that article if, before the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a section 11 of article VIII of the constitution of this

## 2005 - 2006 Legislature



state. If one or more joint resolutions create a section 11 of article VIII simultaneously with the ratification by the people of the amendment proposed in this joint resolution, the sections created shall be numbered and placed in a sequence so that the sections created by the joint resolution having the lowest enrolled joint resolution number have the numbers designated in that joint resolution and the sections created by the other joint resolutions have numbers that are in the same ascending order as are the numbers of the enrolled joint resolutions creating the sections.

*Be it further resolved, That* this proposed amendment be referred to the legislature to be chosen at the next general election and that it be published for 3 months previous to the time of holding such election.

(END)

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## Kreye, Joseph

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**From:** Kreye, Joseph  
**Sent:** Thursday, April 06, 2006 2:24 PM  
**To:** Fiocchi, Tim; Ammerman, Fred; Loppnow, Dave  
**Subject:** RE: TPA Draft Markup

I'm not sure that creating a definition for "segregated entity" is the best way to accomplish your intent. I believe it would be better to just come out and say it in a separate subsection or paragraph. In other words, the amount of revenue that the state collects and deposits into a segregated fund/account is limited to the amount collected and deposited into that fund/account in the previous year, increased by CPI, not to exceed personal income growth, plus the percentage of any population increase. No revenue source designated for use by a segregated fund/account as of January 1, 2006, shall be used for any other purpose. I assume then that the rest of the state's budget would be subject to the limit apart from the segregated funds.

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

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**From:** Fiocchi, Tim  
**Sent:** Thursday, April 06, 2006 1:54 PM  
**To:** Kreye, Joseph; Ammerman, Fred; Loppnow, Dave  
**Subject:** RE: TPA Draft Markup

Hi guys,

The intent was to create firewalls around all the segregated accounts and require that the revenues coming into those revenues not be used for any purpose other than the purpose for which they were generated. Each account was then intended to have its own growth limit of CPI plus population increase. Earmarking of GPR should not create an entity.

I'm hoping to get Jeff together with Rep. Gottlieb shortly and then head over your way.

Tim

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**From:** Kreye, Joseph  
**Sent:** Thursday, April 06, 2006 1:23 PM  
**To:** Fiocchi, Tim; Ammerman, Fred; Loppnow, Dave  
**Subject:** RE: TPA Draft Markup

I have a question with regard to a segregated entity. The definition for "segregated entity" includes a state agency. Is it possible to interpret this to mean any executive branch agency (DOT, for instance) that is funded, at least in part, from a segregated fund? If so, is it consistent with your intent that such an agency would be considered a entity separate from the state for purposes of the limit? Would it then be possible, for example, to fund all the legislative service agencies from segregated funds and have them be separate segregated entities for purposes of the limit? On a different line of reasoning, would designating moneys from ANY appropriation for operating any state agency cause the agency to become a segregated entity? In other words, would "earmarking" a GPR appropriation for the operation of a state agency cause the agency to become a segregated entity?

Joe

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

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**From:** Fiocchi, Tim  
**Sent:** Wednesday, April 05, 2006 4:57 PM  
**To:** Ammerman, Fred; Kreye, Joseph; Lang, Bob; Loppnow, Dave  
**Subject:** TPA Draft Markup

Attached is a marked up version of TPA. The strike-through changes are from the group and the "track changes" are from Jeff. We should walk through these as soon as possible. I'm sure there will be more.

Tim Fiocchi  
Office of Representative Jeff Wood  
(608) 266 1194  
<< File: tpa draft markup.rtf >>

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

- ~~file 8806~~ need LRB/pl 4-6-06  
 1 ① delete "segregated entity" LRB/wood/Goldman
- replace w/ my suggested language  
 for segregated funds  
 (see sent item to Tim)
- ✓ ② a2897/1 — add  
 — exact model  
 — reference to the CDEB  
 Credit state than  
 special education needs
- ✓ ③ add back "tax credit"  
 — "marginal rate" language
- ✓ ④ school districts → see notes on draft mark-up.
- ✓ ⑤ TIF district expiration — adjustment to the date  
 (you <sup>offer</sup> before the year of expiration) allowed  
 previous year's interest distributed to  
 various local governments in proportion to  
 amount that their levy rates contributed  
 to the interest.
- ✓ ⑥ Enterprise fund problem  
 — fees to support certain municipal  
 operations — pool, golf course,  
 etc.
- ✓ ⑦ revenue held in trust or in a fiduciary  
 capacity? "trust" issues.  
 Does "fiduciary" language work?



✓ 8 add the exception for "real & personal property rel<sup>n</sup> from revenue def.

✓ 9 aggregate limit for school districts could not be increased by referendum → need to clarify?

✓ 10 need to get modified language from RRC related to this piece

✓ 11 may exclude <sup>& amendments</sup> ~~other~~ <sup>city</sup> don't exceed the

✓ 12 add language related to amounts paid to a trustee — see other's sub

✓ 13 modify amendment approval language

✓ - Notwithstanding section 1 of art XII, the <sup>legislature may</sup> ~~approve~~ <sup>amendments</sup> ~~and~~ <sup>may</sup> ~~approve~~ this section only / remove and

may submit <sup>proposed</sup> ~~and~~ <sup>or</sup> ~~may~~ <sup>present</sup> ~~for~~ <sup>for</sup> ~~approval~~ <sup>approval</sup> ~~and~~ <sup>and</sup> ~~adoption~~ <sup>adoption</sup> ~~consistent with~~ <sup>consistent with</sup> ~~art 1 of art XII.~~ <sup>art 1 of art XII.</sup>

see of sub (13)

## Kreye, Joseph

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**From:** Fiocchi, Tim  
**Sent:** Friday, April 07, 2006 9:38 AM  
**To:** Kreye, Joseph  
**Cc:** Ammerman, Fred; Loppnow, Dave  
**Subject:** Towns and villages

Hi Joe,

Jeff called last night with one change. We need to exempt towns but allow the legislature to exempt villages by law. Give me a call if you have any questions.

Thanks,

Tim Fiocchi  
Office of Representative Jeff Wood  
(608) 266 1194



April 7, 2006

Rick,

This is a drafting request for inclusion in the P-draft that Joe is working on for Representatives Wood and Gottlieb. The goal of this request is to prohibit the state from using bonds to fund operating costs. It is intended to reach all forms of borrowing, including G.O., state-issued revenue bonds, excise tax bonds, appropriation obligation bonds, and all types of securitization. Structural refunding, and swaptions where all of the "savings" are taken up front are also affected.

See what you think of the following suggestion. I've tried to follow your "less is more" advice. Thanks.

"All monies from any type of borrowing received by the state, or on behalf of the state by another, can only be used for the purposes specified for public debt, except that the state may borrow for cash flow purposes, if that borrowing is repaid in the same fiscal year. No refunding of any type of borrowing may occur, if that refunding would increase the state's debt service obligation in any fiscal year. No agreement or arrangement relating to any type of borrowing may occur unless any financial benefits from that agreement or arrangement accrue proportionately over the life of the borrowing."

Thanks,

Dave Loppnow